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**OCT 28 2004**

In re Application of	:	OFFICE OF PETITIONS
Gust H. Bardy, et al.	:	
Application No. 09/940,599	:	ON PETITION
Filed: August 27, 2001	:	
Attorney Docket No. 1201.1114101	:	

This is a decision on the petition under 37 CFR 1.313(c)(1), filed October 26, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

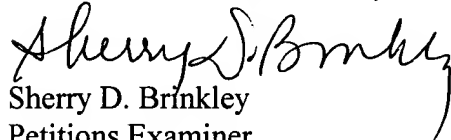
The petition is **GRANTED**.

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

***Petitioner is advised that the issue fee paid on September 30, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>***

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center 3762 for consideration of the amendment filed October 26, 2004.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

<sup>1</sup>The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).